



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2022/029/T
Order No.: 12 (GVA/2024)
Date: 5 February 2024
Original: English

Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: René M. Vargas M.

KAVOSH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:
Wangeci Wahome Akedi

Counsel for Respondent:
Rebeca Britnell, UNHCR
Francisco Navarro, UNHCR

Introduction

1. The Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), contests the decision to impose on him the disciplinary measure of dismissal.

2. Following a case management discussion and the filing of several pleadings and motions, the Tribunal held a hearing in the present case on 23 and 24 January 2024, with the participation of the Applicant, his Counsel, Counsel for the Respondent, and five witnesses.

Consideration

3. The Tribunal hereby addresses the pending motions and issues that the parties raised during the hearing.

The Respondent’s pending motion to strike out

4. During the hearing, the Respondent requested the Tribunal to strike out part of the testimony of Mr. D. M. concerning the alleged romantic advances that the Complainant made to him. The Respondent pointed out that such evidence had the intention to undermine the character of the Complainant.

5. The Respondent noted that the Applicant failed to indicate the alleged romantic advances as a matter on which the witness was going to testify, and that since this issue only came up during the second day of the hearing, the Complainant was neither examined nor cross-examined in this respect.

6. Considering that due process would require the Complainant to be examined and cross-examined on her alleged romantic advances to Mr. D. M., and that this issue was only raised after the Complainant’s testimony, the Tribunal decides to grant the Respondent’s motion.

The Applicant's potential motion for anonymity

7. During the hearing, the Applicant indicated his interest in filing a motion for anonymity. However, no motion has been filed to date. In this respect, the Tribunal considers it appropriate to indicate a deadline for the Applicant to file it, if any.

Other issues

8. During the hearing, the parties made the following requests:

a. The Respondent requested leave from the Tribunal to refer to the following documents:

i. The minutes of the Shiraz Staff Council meeting with the Deputy Representative dated 23 December 2019; and

ii. The Constitution of UNHCR Staff Association in Iran.

b. The Applicant requested the disclosure of the interview record of Ms. F. T. during the investigation conducted by the Inspector General's Office.

9. The Tribunal granted the Respondent's request under para. 8.a above, and the respective documents were included in the case record. The Tribunal also granted the Applicant's request under para. 8.a8.b above, and the Respondent produced said interview record on 25 January 2024. This document has been equally included in the case record.

Closing submissions

10. Having examined the parties' submissions to date and the evidence on record, including the witnesses' testimonies during the hearing, the Tribunal finds that it is fully informed on the matter and the parties can proceed to file closing submissions as instructed during the hearing. No further motions or requests shall be filed after the closing submissions.

Conclusion

11. In view of the foregoing and pursuant to art. 19 of the Tribunal's Rules of Procedure, it is ORDERED THAT:

- a. The Respondent's motion to strike out part of the testimony of Mr. D.M is granted;
- b. By **Monday, 12 February 2024**, the Applicant may file a motion on anonymity, if any;
- c. By **Monday, 19 February 2024**, the parties shall file their respective closing submission, which shall:
 - i. Exclusively refer to the evidence already on file; and
 - ii. Not exceed 10 pages, using font Times New Roman, font size 12 pts and 1.5 line spacing; and
- d. The Respondent shall include his comments on the Applicant's motion on anonymity, if any, in his closing submission.

(Signed)

Judge Sun Xiangzhuang

Dated this 5th day of February 2024

Entered in the Register on this 5th day of February 2024

(Signed)

René M. Vargas M., Registrar, Geneva